

**LOUISIANA PUBLIC SERVICE COMMISSION**  
**MINUTES FROM FEBRUARY 11, 2009**  
**OPEN SESSION**

***MINUTES OF FEBRUARY 11, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, PAT MANUEL, AND ERIC SKRMETTA. ALSO PRESENT WAS LAWRENCE C. ST BLANC.***

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Open Session of February 11, 2009, convening at 9:50 A.M. and adjourning at 1:03 P.M., Natchez Room, 602 N. 5<sup>th</sup> Street, 1<sup>st</sup> Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Lawrence C. St. Blanc.

Ex. 1                    Announcements

Commissioner Campbell stated that the Commission Business Meeting he had requested be held in Vidalia in May will be postponed until the new fiscal budget year beginning July 1, 2009.

Commissioner Skrmetta requested that, budget permitting, the September 16, 2009 B&E will be held in Jefferson Parish, Louisiana.

Ex. 2                    **T-30829** - J. H. Walker, Inc., (Houston, Texas), ex parte. In re: Application for Common Carrier of N.O.R.M Oilfield Waste over irregular routes statewide.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and dismiss Docket No. T-30829 without prejudice.

Ex. 3                    **T-30771** - Louisiana Public Service Commission vs Charles A. Jacob D/B/A Jake's Auto Parts (Avondale, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:163.1 through 194 as amended, and General Order dated June 19, 2001 while operating under LPSC authority 7265, for incomplete tow invoice and exceeding state prescribed rates allegedly having occurred on or about July 21, 2008.

On motion of Commissioner Skrmetta, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) Accept the guilty plea of Charles A. Jacob d/b/a Jake's Auto Parts to the allegation that it issued an incomplete towing invoice, thereby violating the Commission's General Order dated June 19, 2001; 2) Fine Charles A. Jacob d/b/a Jake's Auto Parts in the amount of \$500, with \$250 of that amount suspended, conditioned upon: a) The Carrier's payment of the unsuspended portion of the fine (\$250) within ten (10) days of the issuance of this Order; b) The Carrier's filing with the Commission's Transportation Division, within ten (10) days of the issuance of this Order a sample of replacement invoices to be utilized by the Carrier, bearing allotted space for time in and out information; and c) The Carrier's commission of no further violations over the next twelve (12) months; and 3) That, if the Carrier fails to fulfill any one of the three conditions, it shall be required to immediately pay the suspended portion of this penalty to the Commission.

Ex. 4                    **U-29764** - Louisiana Public Service Commission, ex parte. In re: Entergy Louisiana, LLC and Entergy Gulf States, Inc., retail proceeding to estimate and implement in retail rates in 2007 the rough equalization impact of FERC Opinions No. 480 and 480-A, FERC Docket EL 01-88-000, LPSC vs. Entergy Corp.

**PASSED**

Ex. 5                    **U-30192** - Entergy Louisiana, LLC, ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.

**In re: Possible Executive Session pursuant to La. R.S. 42:6.1(2)**

**At the request of Commissioner Field.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Manuel, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 6            **U-30499 - Tri-State Sand & Gravel, L.L.C. (Haughton, LA), ex parte.** In re: Request for an increase in sewerage rates for residential customers.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and 1) Approve the stipulation and all provisions therein and 2) Allow Tri-State Sand & Gravel to increase its residential sewer rates to \$15.50 per month.

Ex. 7            **U-30689 Sub A - CLECO Power, L.L.C., ex parte.** In re: Application of Cleco Power, LLC for: 1) implementation of changes in rates and Formula Rate Plan to be effective upon the commercial operation date of Rodemacher Power Station Unit No. 3 (RPS-3); 2) favorable public interest determination for transmission upgrades in the Acadiana Load Pocket; and 3) renewal of transaction guidelines applicable to certain economy power purchases from Acadia Power Partners, LLC.

**In re: Consideration of a favorable public interest finding regarding transmission upgrades in the Acadiana Load Pocket.**

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the stipulated settlement.

Ex. 8            **U-21453, U-20925, and U-22092 (Subdocket J) – Entergy Gulf States, Inc., ex parte.** In re: Request for the approval of the Jurisdictional Separation Plan for Entergy Gulf States, Inc.

**In re: Motion of the Louisiana Public Service Commission Staff to Enforce Order No. U-21453, U-20925 and U-22092 (Subdocket-J) with respect to the accounting for the Spindletop Gas Storage Facility.**

**Last month's Ex. 6**

**PASSED**

Ex. 9            **R-30480 - LPSC, ex parte.** In re: Review of the Existing State Universal Service Fund, as established by LPSC General Order dated 4/29/05, as amended 5/18/05.

**At the request of Commissioner Manuel.**

**Last month's Ex. 7**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept Staff's Recommendation, with the following modifications to Staff's Proposed Section 601.E. Section 601.E shall read as follows: Notwithstanding the procedures established by Section 601 B, a non-rural ILEC's COLR obligations shall sunset on an exchange basis when either the CLEC residential market share is equal or greater than 25% or the CLEC total market share is equal or greater than 30% for that particular exchange. Effective immediately, the non-rural ILEC shall be relieved of its COLR obligation for all exchanges meeting the requirements of this paragraph as demonstrated by the data submitted in Docket No. R-30480. Beginning March 1, 2010 and annually thereafter, the non-rural ILEC shall submit a confidential and proprietary report to the Commission identifying the CLEC residential market share and CLEC total market share for each exchange. This report shall be based on the most current data available to the non-rural ILEC for the preceding calendar year. The non-rural ILEC's COLR obligation for exchanges meeting the requirements

of this paragraph automatically shall sunset upon the filing of this annual report without further action by the Commission. In such exchanges where the obligation has been sunset, a CLEC may petition to assume the COLR obligations for that exchange. The Commission may reinstitute a non-rural ILEC's COLR obligations when necessitated for public interest reasons.

Ex. 10 Discussion of State of Mississippi lawsuit vs. Entergy and relevance to Louisiana ratepayers.

**At the request of Commissioner Campbell.**

Special counsel Fontham reported on the allegations in the lawsuit brought by the Mississippi Attorney General against Entergy Mississippi, Inc. and their relevance to the Entergy companies subject to the Commission's jurisdiction, and on proceedings in which the issues have been or are being addressed by the Commission.

Commissioner Field requested that Staff review the ongoing Entergy Gulf States fuel audit (Docket No. U-27103) with regard to SO<sub>2</sub> costs, if this is not already being addressed by Staff as part of that audit, and update the Commissioners on this issue next month. Commissioner Field stated that action was taken by the Commission in the ELL fuel audit in December and it addressed the SO<sub>2</sub> cost issue and wants it reviewed as part of the EGS audit.

- Ex. 11
- 1) Reports
    - a. Update on NRRI audit.  
Executive Counsel Gonzalez advised the Commission that the NRRI representative will arrive the first week in March to meet with PSC staff for a site visit.
  - 2) Resolutions
  - 3) Discussions

Mr. St. Blanc advised the Commission they would be receiving a letter announcing his retirement shortly.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to take an item out of order.

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to immediately open a nationwide search for a replacement for the Executive Secretary position of the Louisiana Public Service Commission.

Commissioner Field directed Staff to check on the status of fuel audits of Cleco, ELL and EGS and issue any necessary RFPs.

Commissioner Field directed Staff to coordinate a conference for March, if possible, in New Orleans whereby state and federal regulators and other stakeholders can hear from Entergy regarding their commitment to the ISTEP recommendations, as well as the associated construction timelines.

Commissioner Field directed Staff to host a technical conference to focus on Louisiana-specific transmission upgrades that are primarily for reliability purposes, as identified pursuant to the FERC-approved Attachment K process. Specifically, the purpose of the technical conference would be to: (1) provide a forum for the ICT to present its Base Plan and for Entergy to present its Construction Plan; (2) allow Staff and the stakeholders to evaluate and question any disparity between the Base Plan and Construction Plan; (3) provide a forum for Entergy to consider input from Staff and the stakeholders prior to the development of its final Construction Plan; and (4) provide information which will assist the Staff and stakeholders in formulating their respective comments in advance of the upcoming Transmission Summit. The LPSC-technical conference would in no way modify the FERC-approved Attachment K process.

Commissioner Field further directed Staff to go ahead and organize the technical conference and issue a RFP for a transmission consultant.

Ex. 12 **U-28513** – Energy America, ex parte. In Re: Complaint against Entergy Louisiana, Inc. regarding the application of its Large Economic Expansion Service Rider Schedule 3 to its Large Industrial Power Service Rate Schedule LIPS-16

**In re: Request for Rehearing**

**At the request of Commissioner Field.**

Commissioner Field offered a motion to affirm Order U-28513-C, whereby the Commission found that Entergy violated the Filed Rate Doctrine, and grant a limited rehearing for the purpose of quantifying the difference between the amount that Entergy should have charged the customer pursuant to the tariff at issue and the amount Entergy actually charged. Commissioner Campbell objected to this motion. This motion died for lack of a second.

On motion of Commissioner Campbell, seconded by Commissioner Manuel, with Commissioner Field concurring and Commissioners Boissiere and Skrmetta dissenting, the Commission voted to deny rehearing.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to recall the last vote and rehear Commissioner Field's motion.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Boissiere and Manuel concurring and Commissioner Campbell dissenting, the Commission voted to affirm Order U-28513-C, whereby the Commission found that Entergy violated the Filed Rate Doctrine, and grant a limited rehearing for the purpose of quantifying the difference between the amount that Entergy should have charged the customer pursuant to the tariff at issue and the amount Entergy actually charged. It was further moved that the Commission employ an outside consultant versed in tariff and rate analysis for the purpose of evaluating the record and providing the Commission with a recommendation on this issue. Because such a project could be completed well below the \$50,000 threshold that mandates a formal RFP and subsequent Commission vote, and because the record likely already contains the necessary information upon which to make a recommendation, the Commission is confident that a consultant could be hired and have time to complete his or her analysis by the March – or at the latest – April Open Session.

Ex. 13      **U-30893** – Dixie Electric Membership Corporation, ex parte. In re: Request for approval of methodology to establish a Formula Rate Plan and approval of Rider Schedule FRP.

**In re: Request for Authorization to Issue a Request for Proposal to Hire an Outside Consultant to Assist Commission Staff.**

**At the request of Commissioner Field.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorized the issuance of an RFP for a technical consultant so that the Commission can make a hiring decision at the March 2009 B&E.

Ex. 14      **U-30913** – Cleco Power LLC, ex parte. In re: Application of Cleco Power LLC for Certificate of Public Convenience and Necessity for Authorization to Construct, Own, and Operate a Blackstart Generating Unit at Existing Teche Power Station; and Expedited Treatment.

**In re: Possible hiring of Exeter Associates for under \$50,000.**

**At the request of Commissioner Manuel.**

On motion of Commissioner Manuel, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and hire Exeter Associates for a budget of \$41,500 with expenses not to exceed ten percent.

Ex. 15      **Discussion and possible vote regarding placing items on the Agenda within 72 hours of a B&E meeting.**

**At the request of Commissioner Skrmetta.**

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commissioner voted to implement a new rule in which the supplemental agenda for

the Business and Executive Session shall close at 12 o'clock noon on the Friday prior to the next B&E meeting. In case of emergency, items may be placed on the agenda within the precluded timeframe, if determined by Staff that it is necessary to place such item(s) on the agenda, so long as the Public Meetings Law is observed.

Commissioner Campbell wants a rule on next month's Agenda stating that any Commissioner can put any item he wishes on the Agenda as long as it is before the 72 hour cut-off.

Ex. 16      **U-28035 Subdocket D** - Entergy Gulf States, LLC, ex parte. In re: Filing of 2009 Annual Evaluation Report pursuant to the Rate Stabilization Plan adopted by the Commission in Order No. U-28035.

**In re: Discussion and Possible Vote regarding utilization of outside consultant.**

**At the request of Commissioner Field.**

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept Staff Recommendation and authorize Exeter Associates, Inc. to assist Staff with the review of EGSL's 2009 annual evaluation report in Docket No. U-28035 Sub. D for the existing budget remaining in its account for U-28035 and following subdockets.

On motion of Commissioner Skrmetta, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to adjourn.

## **MEETING ADJOURNED**

The next Business and Executive Session will be held March 11, 2009 at 9:00 a.m. in Baton Rouge, Louisiana.